

DANA ROHRBACHER

46th District, California

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SCIENCE AND TECHNOLOGY

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Congress of the United States
House of Representatives

June 8, 2007

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Mr. H. Dale Hall
Director
US Forest Service
USDA Yates Building, 5th Floor, NW Wing
201 Fourteenth Street, SW
Washington, D.C. 20250

Dear Director Hall:

As you may know, for many years the federal wildlife resource agencies have spearheaded efforts to protect and restore unrestored tidal wetlands in Southern California. One such area, the Los Cerritos wetlands, lies within the City of Long Beach and the City of Seal Beach spanning both Los Angeles and Orange counties. The Los Cerritos Wetlands, the remnant of the estuary of the San Gabriel River, is one of the largest remaining tidal wetland properties that have significant portions under private ownership in Los Angeles and Orange Counties. The once vast wetland areas of the region have been reduced by urbanization to approximately five percent of their pre-urban area. At 453 acres, Los Cerritos is particularly valuable as a link between the tidal wetland areas of Bolsa Chica and Ballona Creek.

The City of Long Beach has for years placed a high priority on the restoration of Los Cerritos as a means of enhancing its natural resources and providing passive recreational and open space opportunities for its residents. Accordingly, the City is working with federal and state agencies, a public land trust, and local environmental groups to acquire and restore those wetlands. Unfortunately, the high cost of a restoration has been a key factor limiting the City's ability to realize its dream. Major funding for the project could come from the Port of Long Beach, which is the only prospective source of significant funds, but only if the federal agencies involved can revise certain existing restrictions.

The Port is willing to assist in the restoration project in order to garner mitigation credits to offset impacts of port development projects. The Port pays for restoration projects with Tidelands Trust funds, which is permissible when the generation of

mitigation credit is tied to the Trust purpose of maritime commerce. The Port tidelands were granted to the City of Long Beach in trust for the people of the State of California. Tidelands Trust restricts the use of income and revenue generated from businesses and activities conducted on the tidelands. The revenues must be used for improving or maintaining harbor commerce and navigation, or for marine recreation or fisheries.

Current federal policy in Southern California, as pursued by the U.S. Fish and Wildlife Service and NOAA Marine Fisheries, restricts port mitigation to subtidal and low intertidal wetlands with high habitat values. Accordingly, the Port is unable to participate to any significant extent in restorations that result in wetlands that are predominantly high intertidal or freshwater, or that may have suboptimal habitat quality. In the case of Los Cerritos, the high elevation and unique tidal regime of the site appear to severely limit the amount of port mitigation credit a restoration might generate. That, in turn, has prohibited the Port from participating, given the Tidelands Trust restrictions, despite the Port's very real interest in taking a major role in a restoration.

On the federal level, a restored Los Cerritos Wetlands would be a key component in Fish and Wildlife's long-term plan to form a chain of wetlands along the coast of Southern California that would provide valuable winter habitat for migratory waterfowl, and would further NOAA Fisheries' goal of increasing the amount of nursery habitat for key recreational and commercial fish species. In addition to the habitat value, there would be significant water quality benefits for coastal and freshwater areas from wetlands restoration.

To date both the State and a local non-profit organization, Trust for Public Lands, have invested approximately \$14 million to purchase approximately 66 acres of the former Bryant property within the Los Cerritos Wetlands project area. Lastly, the Port over the past 20 years has a long history of participating in successful wetlands restoration projects, such as the Upper Newport Bay, Anaheim Bay, and the Bolsa Chica lowlands.

Accordingly, I am asking the various federal resource agencies, such as the U.S. Fish and Wildlife Service and NOAA Marine Fisheries, to evaluate the possibility of realizing a greater degree of flexibility in granting mitigation credit than prior Service policy has permitted. I believe that other federal agencies have recently signaled a willingness to consider flexibility in mitigation planning - specifically, the Corps of Engineers/EPA

proposed rule to encourage a watershed approach to compensatory mitigation (Federal Register, 3/28/2006) - and hope that the Service can do so as well. The exact form of such flexibility would, of course be up to the judgment of the Service, and I would welcome your thoughts. As an example, however, if the Port-funded restoration could generate additional habitat credits in recognition of the ecosystem values of high intertidal and freshwater marsh, then major Port participation could be possible and the restoration of the Los Cerritos wetlands could become a reality.

If you have any questions, please do not hesitate to contact my office or the Port of Long Beach directly. Thank you very much for your consideration of this important issue.

Sincerely,

A handwritten signature in dark ink, appearing to read "Dana Rohrabacher". The signature is fluid and cursive, with a long horizontal stroke at the end.

Dana Rohrabacher
Member of Congress

Cc Dr. William T. Hogarth, Assistant Administrator, National Marine Fisheries Service
Mayor Bob Foster, City of Long Beach
President James C. Hankla, Port of Long Beach Board of Harbor Commissioners
Gary DeLong, Long Beach 3rd District City Council Member
Gerald R. Miller, Long Beach City Manager
Richard Steinke, Port of Long Beach Executive Director